

## **TAB 21**

### 2.5.1.3 The Settling Federal Agencies' Consent Decree

The Debtors and the EPA, the United States Department of Agriculture, the United States Department of the Interior, and the United States Army Corps of Engineers (collectively, the "Settling Federal Agencies") currently are negotiating the terms of a Consent Decree (the "Consent Decree") to settle the various claims that the Settling Federal Agencies have asserted against the Debtors with respect to certain costs incurred or to be incurred by the Settling Federal Agencies in the course of responding to releases and threats of releases of hazardous substances into the environment for approximately 35 certain sites, including the Libby site (the "Settlement Sites"). The sites that are currently contemplated are the following 26 sites:

1. Aqua Tech Site in Greer, South Carolina
2. Blackburn and Union Privileges Site in Walpole, Massachusetts
3. Casmalia Resources Site in Santa Barbara, California
4. Central Chemical Site in Hagerstown, Maryland
5. Elwood City Zonolite Site in Ellwood City, Pennsylvania
6. Galaxy/Spectron Site in Elkton, Maryland
7. Green River Site in Maceo, Kentucky
8. Harrington Tools Site in Glendale, California
9. Intermountain Insulation Site in Salt Lake City, Utah
10. Li Tungsten Site in Glen Cove, New York
11. Malone Services Co. Site in Texas County, Texas
12. N-Forcer Site in Dearborn, Michigan
13. Operating Industries Site in Monterey Park, California
14. Prince George's County Zonolite Site in Beltsville, Maryland
15. R&H Oil/Tropicana Site in San Antonio, Texas
16. RAMP Industries Site in Denver, Colorado
17. Reclamation Oil Site in Detroit, Michigan
18. Robinson Insulation Site in Minot, North Dakota
19. Solvents Recovery Service of New England Site in Southington, Connecticut
20. Vermiculite Intermountain Site in Salt Lake City, Utah
21. Vermiculite Northwest Site in Spokane, Washington
22. Watson Johnson Landfill Site in Richland Township, Pennsylvania
23. Western Minerals Processing Site in Denver, Colorado
24. Western Minerals Products Site in Minneapolis, Minnesota
25. Zonolite/Grace Site in Hamilton Township, New Jersey
26. Zonolite/Grace Site in Wilder, Kentucky

In addition, the Consent Decree addresses treatment of rights and claims regarding access to the Libby, Montana Site, treatment of the claim regarding the ATSDR nationwide investigation of the Libby Site material, and treatment of claims and expenses regarding the following Debtor-owned sites:

1. Acton Plant Site in Acton, Massachusetts
2. Cambridge Plant in Cambridge, Massachusetts
3. Curtis Bay Site in Curtis Bay, Maryland
4. Kootenai Bluffs and Kootenai Flyway Properties in Libby, Montana

**5. Wells G&H Site in Woburn, Massachusetts**

**6. Zonolite/Grace Site in New Castle, Pennsylvania**

The Consent Decree will provide for: (1) the allowance of certain General Unsecured Claims with respect to the Settlement Sites certain sites, (2) treatment of Claims regarding the ATSDR's nationwide investigation of former vermiculite expansion sites, (3) treatment of Claims regarding certain other Debtor-owned sites, and (4) the treatment, as Administrative Expense Claims, of certain Comprehensive Environmental Response, Compensation, and Liability Act ("Superfund") response costs incurred post-petition at certain Debtor-owned sites. The Consent Decree will also resolve the claims of certain PRP groups and establish a protocol for addressing the liability and obligations of the Debtors to the Settling Federal Agencies with respect to additional non-owned sites not currently addressed in the Consent Decree.

The Debtors and the Settling Federal Agencies currently are conducting investigation in order to reach agreement about the allowed amount of the Claims on many of the sites that will be included in the Consent Decree. It is not known at this time when the Consent Decree will be finalized, what properties it will cover, and at what Allowed Amount. The EPA has filed numerous Claims against the Debtors as outlined above. While the Debtors believe the Consent Decree will ultimately be finalized, in the event that it is not, the EPA Claims will be addressed through the traditional Claims objection process. As outlined herein, the Debtors' estimates and projections are not based on entry of the Consent Decree but many of the Allowed amounts provided for in the Consent Decree are consistent with the Debtors' estimates and projections which are based on public comments regarding the spending plans of the EPA, discussions of spending forecasts with EPA representatives, analysis of other information made available from the EPA, previous consent decrees and agreements, actual outstanding invoices, and historical costs.